

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

In re: Paradise Point Senior Housing, LLC.

Case No. 2014-081VW


**ORDER GRANTING PETITION FOR WAIVER OF RULE 67-48.004(14)(i)
and (l), FLORIDA ADMINISTRATIVE CODE**

THIS CAUSE came on for consideration and final action before the Board of Directors of Florida Housing Finance Corporation ("Florida Housing") on December 12, 2014, pursuant to a "Petition for Waiver of Rule 67-48.004(14)(i) and (l) for a Change in Number of Units and Housing Credit Request Amount" (the "Petition"). Florida Housing Finance Corporation ("Florida Housing") received the Petition on November 11, 2014, from Paradise Point Senior Housing, LLC ("Petitioner"). Notice of the Petition was published in Volume 40, Number 222, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised in the premises, the Board of Directors (the "Board") of Florida Housing hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

2. Pursuant to RFA 2013-001, Affordable Housing Developments located in Medium and Small Counties ("RFA"), Paradise Point Senior Housing,

FILED WITH THE CLERK OF THE FLORIDA
HOUSING FINANCE CORPORATION

 /DATE: 12.15.14

LLC (“Petitioner”) applied for and was awarded an allocation of tax credits to finance the construction of a development intended to serve the elderly, known as Paradise Point Senior Housing (the “Development”) located in Monroe County, Florida.

3. Rule 67-48.004(14)(i), Florida Administrative Code (2011), provides in pertinent part:

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(i) Total number of units...

(l) Funding Request amount...

4. Section 120.542(2), Florida Statutes provides in pertinent part:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

5. In its application, Petitioner committed the Development to a total of 47 new construction units.

6. Petitioner requests a waiver of the above rule. Specifically, Petitioner seeks to reduce the total number of units in the Development from 47 to 42, with a reduction in the Housing Credit allocation proportionate to the reduction in the number of total units, i.e., from \$1,175,000 to \$1,050,000. The request was necessitated by the actions of the seller of the land, who leased a portion of it to a third party, in violation of the land sales contract. The leased property is no longer available to be developed by Petitioner.

7. The requested change would neither affect the scoring of Petitioner's application nor allow Petitioner to gain an unfair advantage over other applicants.

8. Petitioner has demonstrated that strict application of the above rule under these circumstances would constitute a substantial economic hardship and violate the principles of fairness for Petitioner. Petitioner demonstrated that it is now legally impossible to construct the original number of units, without protracted litigation. The reduced parcel size decreased the number of units permitted to be constructed. Petitioner will still be required to set-aside 100% of the units as affordable. Granting the requested waiver will serve the purpose of the underlying statute and the Act as a whole by facilitating the availability of affordable housing to low-income elderly persons and households that might not be otherwise available, while recognizing the economic realities of constructing affordable housing in Monroe County.

IT IS THEREFORE ORDERED:

The Petition for a waiver of Rules 67-48.004(14)(i) and (l) Florida Administrative Code (2011) is hereby **GRANTED** , to the following extent: the number of units in the Development shall be reduced 47 units to 42 units. The amount of Housing Credit allocation requested by Petitioner shall be reduced from \$1,175,000, the amount requested in its Application, to \$1,050,000.

DONE and ORDERED this 12th day of December, 2014.



Florida Housing Finance Corporation

By: _____

Chair

A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to be the initials "HJ" followed by a long, sweeping flourish.

Copies furnished to:

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Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
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NOTICE OF RIGHTS

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.